



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

DIVISION OF STATE COUNSEL
LITIGATION BUREAU

October 23, 2023

Via ECF

The Honorable Frank P. Geraci, Jr.
United States District Court for the Western District of New York
United States Courthouse
100 State Street
Rochester, New York 14614

Re: *New York State Firearms Association, et al. v. Nigrelli*, No. 23-cv-6524-FPG

Dear Judge Geraci,

This office represents Dominick L. Chiumento in his official capacity as Acting Superintendent of the New York State Police. I write to correct the record regarding the issue of service and to propose a schedule for the Superintendent's answer or motion to dismiss.

In response to Plaintiffs' filing of an affidavit of service last Wednesday, October 18, the Division of State Police conducted an additional search of its files and discovered that it had in fact received a copy of the Summons and Complaint by mail. The papers were unfortunately misfiled in the course of recent turnover at the Division and were not discovered until Friday.

Accordingly, the Superintendent withdraws the service-related argument raised in opposition to Plaintiffs' motion for a preliminary injunction. See ECF No. 19 at 7. A preliminary injunction should be denied nonetheless for the many other reasons raised in the opposition papers, including the lack of subject-matter jurisdiction, the fact that the challenged measures are not "infringements" under the original public meaning of the Second Amendment, the long historical tradition supporting background checks and reasonable regulatory fees, the lack of any irreparable harm, and the public interest in allowing New York's background check system to continue its important work.

In order to spare the Court and the parties from any unnecessary or duplicative motion practice, the Superintendent requests that the deadline to answer or otherwise respond to the Complaint be adjourned until 30 days after the resolution of the current preliminary injunction motion, including any applicable appeals or petitions for certiorari. I have conferred with counsel for the Plaintiffs, who assent to the proposed schedule. We thank the Court for its time and consideration of this request.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'James M. Thompson', with a long horizontal flourish extending to the right.

James M. Thompson
Special Counsel for Second Amendment Litigation
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Cc: All counsel of record (Via ECF)